

Submission to
NSW Legislative Assembly
Public Accounts Committee

**Inquiry into the value for money from
New South Wales Correctional Centres**

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Introduction

On 6th April 2005 the Public Accounts committee self-referred an inquiry into the value for money from New South Wales Correctional centres. The terms of reference are:-

- consider the current initiatives being undertaken by the Department of Corrective Services (DCS) to improve safety and cost effectiveness of correctional centre management;
- compare the cost of corrective services provided by public correctional centres using the Way Forward program and by private operators; and
- review whether the planned improvements to the DCS calculation of costs will facilitate better comparisons between private and public sector providers

This submission relies on the premise that any consideration of the *value for money* of correctional centres must focus on a real return on investment; that is, the benefit to the community on expending public monies on corrections must be valued with a reduction on re-offending by offenders and consequently, the quality and quantity of services and programs made available to all offenders in correctional centres regardless of their classification, institutional placement or length of sentence.

Until this is realized, it is the author's opinion that NSW can expend as many millions of public dollars as it likes on building more jails and enhancing court sanctions without actually achieving any real reduction in recidivism or expanding upon any economic or social return on investment.

Whether services are provided in the public or private sector is irrelevant until such focus is placed towards real programs and services targeted at reducing re-offending.

The Objectives of Corrections in New South Wales

There are clearly two primary objectives (for the scope of this inquiry) of any corrections system in New South Wales:

ONE

the housing of offenders away from the community until the conclusion of that offenders sentence, or their release on bail or other form of licence

TWO

to engage offenders in programs to address their offending behaviour and programs to support that offenders ability to reintegrate back into the community upon their release, especially as that relates to housing, health care, personal positive relationships and active employment.

Even the most cursory review of criminological literature published in the last decade will allow you to conclude that whilst the NSW Department of Corrective Services has exceeded expectations for Objective One with a very low escape rate throughout the State's correctional centres, even the most objective of readers would have to conclude that Objective Two has been missed quite badly when considering the recidivism rate among offenders currently in custody throughout New South Wales.

Clearly, whilst there will always be a percentage of offenders who continue to offend despite earnest efforts being made to dissuade them from so doing [not the least of which are harsher penalties and more stringent bail laws], the fact that higher than 40% of prisoners return to custody within 24 months of being released is a disgraceful social indictment upon all of us.

Core to this problem must be the lack of accessible programs to assist offenders whilst in custody, the nature and culture of correctional officers assigned to interact daily with those offenders, the pre-colonial housing afforded to the majority of inmates across the State, and the lack of supervised post-release services currently made available to prisoners upon their discharge from correctional centres.

Clearly there are difficulties in providing assistance to inmates who decline to participate, and with that, difficulties in compelling those inmates to participate but the scant facilities currently available are not acceptable if we are to seriously expect a return on the \$703.7 million allocated to Corrective Services (see Budget papers 2005/6) for custodial services alone. This figure does not include the burgeoning requirements of Justice Health to provide health care related services to the States nearly 9000 inmates.

It would not be considered acceptable if the State school system returned a 40% failure or expulsion rate for its students, or if the Health system showed a 40% infection rate of its patients. Indeed, why such a figure should be accepted in the custodial sphere of public spending is considered 'average' does not make any economical, social or common sense.

Reading between the lines of the submission provided by The GEO Group Australia Pty Limited the inference is that the Department of Corrective Services operates a massive blow-out of costs of maintaining offenders given the \$200.83 per inmate per day cost to the Department of Corrective Services as compared to the \$81.86 figure expended by GEO in its management of the Junee Correctional Centre. There are of course logical expenses incurred by the Department which are not borne by GEO, costs such as escorts of prisoners between courts and correctional centres, not to mention the administrative costs of actually running a State Government department.

I am not in a position to review the specific costs incurred on a micro-economic level of the Department of Corrective Services but I am sure that if you were to compare the departments costs on a stand alone basis, that is, comparing one correctional centre of similar ilk to Junee; Cessnock for example, that you may find the costs incurred are quite similar.

**Cutting through the smoke and mirrors:
The realities of services afforded to inmates in NSW Correctional Centres**

Government departments, Ministers and dare I say politicians are particularly adept at providing masses of papers to justify particular positions on issues. The Department of Corrective Services has relied on its new model "*The Way Forward*" to augment its awareness of providing value for money in the services it provides to the community. Likewise, GEO the State's only private provider of correctional services demonstrates its awareness of the issue by submitting two papers to highlight to cost benefits of the private sector over public management of corrections.

In fact, of all the submissions published to date by this inquiry, only one has made any mention of the importance of rehabilitation in a correctional model. The criteria for cost effectiveness would appear to be entirely related to wages, overtime and staff management. No doubt this is an important issue and the Department's utilisation of *The Way Forward* in its jails at Kempsey and soon to be Wellington have received positive feedback from interested parties.

Like any organisation, the Department of Corrective Services spends much of its budget allocation per year on salaries and staff-related operating costs. Naturally, much of the staff related costs directly connect to the management of offenders in custody, but introducing programs to reduce or more efficiently expend human-resources related funding is only a part of the issue at hand. It is disappointing that this has been overlooked by the majority of submissions. Insofar as the wording of the terms of reference are concerned, this omission may be unintentional but is more likely to be deliberate.

Corrective Services has been notoriously secretive about these issues since being placed under the stewardship of its current Commissioner, Mr Ron Woodham PSM in 2002.

Across the State's 25 correctional centres (including the private Junee Correctional Centre) there are a number of approved programs aimed at targeting re-offending, these include Anger Management, Harm Minimisation, AA and NA programs (operated by outside groups with visiting privileges in each correctional centre), Health Awareness, Parenting programs, and a variety of offence-specific programs related to drug use, sex offenders and crimes

involving violence such as Armed Robbery. Throughout each correctional centre there are education officers, AOD (Alcohol & Other Drug) workers, psychologists, welfare officers and support staff, supposedly busying themselves with the affairs of inmates who need assistance.

Probation and Parole (now called Community Offender Services) attend to inmates approaching the end of their sentences and there are usually clinics attended by staff from Legal Aid and Centrelink on a semi-regular basis.

Those of us in the community blindly consider the prisoners behind the walls to be there of their own accord and if they don't utilise the services made available to them when they're in jail then more fool them. Our sense of warm satisfaction made all the more by the government and its opposition legislating harsher sentences and building more jails.

The Department's Annual Report lays claim to these facilities and infers that any offender at any time can access as many or as few of these services as s/he requires at any correctional centre to which they are classified.

For the purposes of considering "value for money" out of our correctional centres, consider the following case-studies. The first is hypothesis based on current standards, the second taken verbatim from the recent judgment of Justice Hidden in the Supreme Court of New South Wales in R v Hillsley [2005] NSWSC 652.

Case One

Offender "John", age 19. Convicted of aggravated assault he is sentenced to 18 months imprisonment with non-parole period of 12 months.
This is his first time in custody

John arrives at the Metropolitan Remand and Reception Centre and is seen over the coming days by welfare and psychological staff. At classification he is given a security rating of C2 and classified to Cessnock Correctional Centre. Normally young offenders where possible are sent to either John Maroney at Windsor or the young offenders program at Oberon. There are however no vacancies at either centre and Cessnock is the short term accommodation centre for prisoners from Sydney. He arrives at Cessnock's minimum security correctional centre one month after entering custody in Sydney.

Upon arriving at Cessnock the reception officer advises John of the various programs available to him, mostly run from the "Phoenix project" in 1 wing. After some weeks, John seems interested in the Anger Management programs offered through Phoenix. He cannot however enter this program until he is housed in 1 wing. All new receptions at Cessnock go to 2 wing and the wait for 1 wing can be some time. In the meanwhile, he is required to work if he wishes to be allowed to have contact visits with his mother and father and to be allowed to buy items from the canteen during buy-ups. He begins working in pre-technology and four months into his sentence is moved across to the quieter 1 wing where he approaches the Phoenix room manager to enrol in an anger management course. The waiting period for this course is 4 months. By which time John will have just 3 months left to serve on his sentence. It is a pre-requisite of the Phoenix program you have at least 6 months left to serve as the course is quite involved and time-consuming. Similarly, the courses are run during the day which means John would have to stop his job within Corrective Services Industries. Although John only receives about \$40 per week for working 25 hours, it is the loss of privileges that come from being a "non-worker" that put him off even if there had been a vacancy when he originally applied. The AOD worker running the program could have more vacancies but he is the only worker employed at the jail for this purpose and can only stretch himself between 380 inmates so far.

John is released after serving his 12 months and meets up with two other inmates he met while in Cessnock. After 3 months of trying to get back on his feet, he is arrested for being an accomplice to an armed robbery on a service station with the two men he befriended at Cessnock. He is convicted and sentenced to 2 years in jail with non-parole period of 18 months.

Whilst in custody for 365 days John cost the taxpayer of New South Wales a total of \$73,000. Despite being willing, he was unable to access the many services

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the Department publicise as being available to all inmates.

When he is released from his new matters, his total cost to the community will be \$182,400.

Having re-offended so quickly from being released after his first offence he is unlikely to receive a security classification lower than C1 and be sent to a medium security facility where the services available are even more over-subscribed than the minimum security centres.

Examples such as the one above are typical of the day-to-day frustrations encountered by inmates within our correctional centres. Inherent difficulties with being forced to work, transferred to another centre with 10 minutes notice, forced lock-ins during correctional officer meetings, picnic days and work disputes are all additional contributing problems in all the States correctional centres, both public and private.

Case Two

The following is quoted directly from the judgment of His Honour Justice Hidden in *R v Hillsley* [ibid.], handed down in the Supreme Court at Sydney on 4th July 2005. The following commences at paragraph 14 of the judgment.

The offender was born on 9 December 1951, and is now fifty-three years old. As I have said, he has a criminal history for paedophile offences, some committed in this State and some in the Australian Capital Territory. His record includes some old offences which, with the possible exception of an indecent assault for which he was granted a bond in 1982, are of a different nature. None of those old offences are of significance for present purposes. The offences in the Australian Capital Territory were the subject of a Crown appeal and I have been supplied with a copy of the appellate court's judgment: *The Queen v Hillsley* (Federal Court of Australia, unreported, 11 February 1992). In the leading judgment in that case, Gallop J traced the offender's criminal history which is relevant for present purposes (at pp 4 – 8).

[Please note: The Secretariat has omitted details of criminal offences as some readers may find them disturbing. They are available on request.]

The Crown appeal in respect of those offences was successful, and the appellate court sentenced the offender to terms aggregating imprisonment for twelve years with a non-parole period of six years. In 1995 he was sentenced to a short term of imprisonment for escaping from lawful custody. It is necessary to examine his custodial history following the imposition of the sentences by the Federal Court, and I shall turn to that matter shortly.

Otherwise, I have virtually no information about his background or personal history. There is a little in the judgment of Gallop J and it can only be described as bleak. His Honour recorded (at pp7–8) the sentencing judge's reference to his "quite unfortunate upbringing", but provided no detail of it. His Honour also recorded the sentencing judge's reference to his "very strong, sometimes overwhelming, desires to have intercourse with young girls and his inability to resist those impulses", and the judge's conclusion that he "represented a serious risk to the community, particularly to young female children".

Later in the judgment, his Honour referred to the evidence of two Probation and Parole officers and of a psychiatrist. That material is not before me but its effect is summarised in the judgment (at pp17–18). The Probation and Parole officers considered that the offender represented a risk to the community. The psychiatrist reported that he had a "severely distorted personality", which had worsened "as his relationships with adults had repeatedly failed". The psychiatrist saw it as "imperative" that he undergo treatment, without which there was "a considerable likelihood of repetition of the offences...".

The only other evidence touching upon his background is to be found in the statements of Ms Davis and Ms Versace, to which I have referred. They reveal, without elaboration, that he was estranged from his family and, as I have said, had a gambling problem.

I turn, then, to aspects of his custodial history since the commission of the offences in Canberra. There are in evidence various documents from the Department of Corrective Services dealing with his progress since his return to custody in September 1990. As will be seen, he was to remain in custody until February 2002. The charge of escaping from lawful custody arose from his

escape from Kirkconnell Correctional Centre on 18 June 1995. He was at large only for one day.

During this period of custody (and during the earlier period following his convictions in 1984) he was dealt with for relatively few breaches of prison discipline, and was generally described in reports as a quiet prisoner and a good worker. More importantly, between early 1997 and mid-1998 he expressed a willingness to undertake treatment to avoid re-offending and to participate in counselling to that end. On a number of occasions he complained, apparently with justification, about the inadequacy of psychological services available to him. Generally speaking, he was unable to enter treatment programs for sexual offenders because of his high security classification as a one time escapee. Despite his applying for a reduction of his security status, he remained under that classification until his release.

No doubt, his desire to undertake a treatment program was motivated in large part by his hope of being granted parole. However, in April 1998 he wrote to the Parole Board saying that he would not be applying for parole and no longer wished to see any parole officers. In May 1998 his case officer wrote a report criticizing in trenchant terms the lack of services available to the offender and the fact that his access to programs was impeded by his classification. He expressed the offender's dilemma in this way:

Hillsley is already in his parole period but due to the fact that he has not addressed his sex offending behaviour by doing a sex offenders course he is currently not eligible for parole. He cannot get on a sex offenders course as he needs a 'C' classification to do this, he cannot get a 'C' classification until he shows that he is attempting to address his sex offending behaviour and he cannot do this as the services are not being made available to allow him to address these issues.

A program which became available despite his classification was the Sex Offender Redirection Training Program (SORT) at Junee Correctional Centre. He was transferred to Junee in the middle of 1998 and commenced the program in August of that year. Reports disclose that he was anxious to embark upon it, and

that for a time he participated in it satisfactorily and was seen to have started to "address his offending behaviour". However, it seems that he did not persevere with it and by July 1999 it was noted that he was not attending "therapy groups...". Why this was so does not appear from the documents but perhaps, in all the circumstances, it is not altogether surprising.

Ultimately, on 26 February 2002 he was released at the expiration of his sentences, without the benefit of parole supervision. Nevertheless, he was afforded some assistance by Ms Davis, who secured his accommodation at Chippendale and appears to have provided him with a measure of emotional support, and Ms Versace, who counselled him about his impaired relationship with his family, his gambling and "other lifestyle issues". They did not attempt to grapple with his pattern of sexual offending, which was no part of their function.

26 Before parting with the subjective material, I should refer to a statement by a former prison officer who prepared a report in 1991 about an encounter he had with the offender at Cooma Correctional Centre. It seems that he had a conversation with the offender, who complained about treatment within the prison system of a kind notoriously meted out to inmates who have committed offences against children. According to the report, the offender said, "The screws have bashed me and the more that happens to me the more the kids will suffer. They won't find me next time; it will be another Samantha Knight...." Mr. Hulme informed me from the Bar table that the report was disputed, although the offender did not give evidence. I am prepared to assume that the remark was made and, on the face of it, it is troubling

Insofar as His Honour could conclude, there was a considerable correlation between the offender seeking assistance, being denied access to it and the consequence of him committing further offences upon his release.

When the offender is next eligible for parole, assuming he does not die in custody before that date, the total cost to the taxpayer, not allowing for inflation, will be close to \$1.9 million.

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Taking into account his previous periods of incarceration this one offender has cost the people of NSW \$3.3 million.

The return on that investment has been the additional death of one person and the life-long emotional distress of being sexually assaulted as a child on at least two others.

The real 'way forward'

There is no doubt that the Department of Corrective Services has a very difficult and at times frustrating working environment. Prisons are dangerous and unpleasant places and some inmates (anecdotally a very small percentage) are violent dangerous people who have absolutely no interest or desire to participate in any programs which will assist them to address their offending behaviour.

In contrast, there are many inmates who desperately seek the assistance of various programs only to be excluded through vast waiting lists, classification issues and other problems which exist in many forms at all jails within New South Wales.

It is not until this core problem is addressed that any real value for money can be achieved from our correctional centres.

Mental health issues, drug problems and related social failings are *community problems*. In the wider community health care professionals despair that patients in crisis often don't get the help they need because they don't turn up for their appointments.

What is going on when those same patients, committed to correctional centres for various offences continue to miss out on these services because they can't access them. It's hard to miss an appointment when you're confined to the place offering the assistance.

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Existing and additional funding must be allocated to rehabilitative services within correctional centres before any real value for money can be assessed. If just 20% of the money expended on the two inmates referred to in the earlier case studies was spent on an additional AOD worker at Cessnock, an extra 150 inmates per year could access a program with a 80% success rate in reducing those participants recidivism rate over 5 years.

Until this occurs, the terms of reference of this inquiry whilst useful for their probity mean nothing in terms of real community value for money and the right to live in a safe and harmonious society, as opposed to the current model which relies upon us all living “feel-good” day-to-day. lost in a tunnel of smoke and mirrors.